

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

ROBERT K. DECKER,)	
)	
Plaintiff,)	
)	
v.)	No. 2:18-cv-00185-JPH-MJD
)	
DAVID LUKENS, et al.)	
)	
Defendants.)	

ORDER DENYING MOTION TO CERTIFY CLASS

The plaintiff has filed a motion for class certification. The plaintiff asks the Court to certify a class of thousands of Federal Bureau of Prisons inmates infected with Hepatitis C. Dkt. 109. The plaintiff further seeks appointment of counsel to represent the class.

“A class ‘may only be certified if the trial court is satisfied, after a rigorous analysis, that the prerequisites of Rule 23(a) have been satisfied.’” *CE Design Ltd. v. King Architectural Metals, Inc.*, 637 F.3d 721, 723 (7th Cir. 2011) (quoting *General Telephone Co. v. Falcon*, 457 U.S. 147, 161 (1982)). Under Federal Rule of Civil Procedure 23(a), one or more members of a class may sue on behalf of all members to the class only if:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;
- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). “The party seeking certification bears the burden of demonstrating that certification is proper by a preponderance of the evidence.” *Bell v. PNC Bank, Nat. Ass’n*, 800 F.3d 360, 373 (7th Cir. 2015).

In this case, the motion to certify the class, dkt [109], is **denied**. This is because the plaintiff as a pro se litigant cannot adequately represent a class. “[I]t is generally not an abuse of discretion for a district court to deny a motion for class certification on the ground that a pro se litigant is not an adequate class representative.” *Howard v. Pollard*, 814 F. 3d 476, 478 (7th Cir. 2015); *see also Goodvine v. Meisner*, 608 F. App’x. 415, 417 (7th Cir. 2015) (stating that pro se status is a sound reason for denying class certification).

The Court is currently attempting to recruit counsel to represent Mr. Decker. If the Court is successful, recruited counsel will not be expected to initiate a class action.

SO ORDERED.

Date: 3/26/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

ROBERT K. DECKER
51719-074
TERRE HAUTE - FCI
TERRE HAUTE FEDERAL CORRECTIONAL INSTITUTION
Inmate Mail/Parcels
P.O. BOX 33
TERRE HAUTE, IN 47808

Rachana Nagin Fischer
UNITED STATES ATTORNEY'S OFFICE (Indianapolis)
rachana.fischer@usdoj.gov

Julian Clifford Wierenga
UNITED STATES ATTORNEY'S OFFICE (Indianapolis)
julian.wierenga@usdoj.gov